

and/or accessories and games that infringe the '760 patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(b) and/or (c).

27. Defendants' past and continued acts of infringement have damaged Hillcrest in an amount not yet determined and will continue to damage Hillcrest in the future; and thus Hillcrest is entitled to recover damages adequate to compensate for that infringement.

28. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Hillcrest unless and until enjoined by this Court.

COUNT IV: INFRINGEMENT OF UNITED STATES PATENT 7,414,611

29. Hillcrest incorporates paragraphs 1-28 as if fully set forth herein.

30. Upon information and belief, defendants have been and are now making, using, selling, and/or offering for sale within the United States, and/or importing into the United States, "Wii" video game machines and/or related "Wii" remote controllers that infringe the '611 patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a).

31. Upon information and belief, defendants have been and now are contributing to the infringement of and/or actively inducing the infringement of the '611 patent by others by, among other things, distributing or offering for sale "Wii" video game machines, related "Wii" remote controllers, and/or accessories and games that infringe the '611 patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(b) and/or (c).

32. Defendants' past and continued acts of infringement have damaged Hillcrest in an amount not yet determined and will continue to damage Hillcrest in the future; and thus Hillcrest is entitled to recover damages adequate to compensate for that infringement.

33. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Hillcrest unless and until enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Hillcrest respectfully requests that this Court enter a judgment:

- A. Declaring that Nintendo Japan has infringed the '983 patent;
- B. Declaring that Nintendo Japan has infringed the '118 patent;
- C. Declaring that Nintendo Japan has infringed the '760 patent;
- D. Declaring that Nintendo Japan has infringed the '611 patent;
- E. Declaring that Nintendo of America has infringed the '983 patent;
- F. Declaring that Nintendo of America has infringed the '118 patent;
- G. Declaring that Nintendo of America has infringed the '760 patent;
- H. Declaring that Nintendo of America has infringed the '611 patent;
- I. Awarding Hillcrest damages adequate to compensate for the aforesaid infringement in an amount no less than a reasonable royalty, together with prejudgment interest thereon;
- J. Awarding Hillcrest any other damages permitted, including any for willful infringement, under 35 U.S.C. § 284;
- K. Declaring this an exceptional case pursuant to 35 U.S.C. § 285 and awarding Hillcrest its costs, expenses, and disbursements in this action, including reasonable attorney fees;
- L. Permanently enjoining Nintendo Japan, its officers, agents, employees, privies, successors, and assigns, and those acting in concert or participation with them, from infringing the '983, '118, '760 and '611 patents;

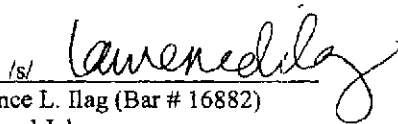
M. Permanently enjoining Nintendo of America, its officers, agents, employees, privies, successors, and assigns, and those acting in concert or participation with them, from infringing the '983, '118, '760 and '611 patents; and

N. Granting Hillcrest such other and further relief as this Court may deem just and equitable.

DEMAND FOR JURY TRIAL

Hillcrest hereby demands a trial by jury for all issues so triable.

Dated: August 20, 2008



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Christine E. Lehman
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Attorneys for Plaintiff

**U.S. District Court
District of Maryland (Greenbelt)
CIVIL DOCKET FOR CASE #: 8:08-cv-02188-RWT
Internal Use Only**

Hillcrest Laboratories, Inc. v. Nintendo Co., Ltd. et al
Assigned to: Judge Roger W Titus
Cause: 35:271 Patent Infringement

Date Filed: 08/20/2008
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff**Hillcrest Laboratories, Inc.**

represented by **Lawrence Luna Ilag**
Finnegan Henderson Farabow Garrett
and Dunner LLP
901 New York Ave NW
Washington, DC 20001-4413
12024084000
Fax: 12024084400
Email: larry.ilag@finnegan.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**Nintendo Co., Ltd.****Defendant****Nintendo of America, Inc.**

Date Filed	#	Docket Text
08/20/2008	<u>1</u>	COMPLAINT against all defendants (Filing fee \$ 350 receipt number 04160000000001819265.), filed by Hillcrest Laboratories, Inc.. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Civil Cover Sheet Civil Cover Sheet, # <u>6</u> Appendix Summons Nintendo of America, # <u>7</u> Appendix Summons Nintendo Co.)(Ilag, Lawrence) (Entered: 08/20/2008)
08/20/2008		Jury Trial Demand by Hillcrest Laboratories, Inc. (ch, Deputy Clerk) (Entered: 08/21/2008)
08/21/2008	<u>2</u>	Summons Issued 20 days as to Nintendo Co., Ltd., Nintendo of America, Inc. (ch, Deputy Clerk) (Entered: 08/21/2008)
08/21/2008	<u>3</u>	Correspondence: Report on the Filing or Determination of an Action

		Regarding a Patent or Trademark. (ch, Deputy Clerk) (Entered: 08/21/2008)
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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS HILLCREST LABORATORIES, INC.	DEFENDANTS NINTENDO CO., LTD. and NINTENDO OF AMERICA, INC.
(b) County of Residence of First Listed Plaintiff <u>Montgomery County, MD</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
(c) Attorney's (Firm Name, Address, and Telephone Number) Lawrence L. Ilag Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. 901 New York Avenue, NW, Washington, DC 20001-4413; Tel: 202.408.4000	Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%;"> <tr> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6
PTF	DEF	PTF	DEF														
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)			
CONTRACTS <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROFESSOR RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAXES <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes			

V. ORIGIN (Place an "X" in One Box Only)	Appeal to District Judge from Magistrate Judgment
<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7	

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 35 U.S.C. § 271

VI. CAUSE OF ACTION	Brief description of cause: <u>Patent infringement</u>
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VII. REQUESTED IN COMPLAINT:	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/> DEMAND \$ <u>To be determined at trial</u>
	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

VIII. RELATED CASE(S) IF ANY	DOCKET NUMBER _____
(See instructions): JUDGE _____	

DATE <u>08/20/08</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Lawrence L. Ilag</u>
FOR OFFICE USE ONLY	

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____ MAG. JUDGE _____
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT DIVISION

HILLCREST LABORATORIES, INC.
15245 Shady Grove Road, Suite 400
Rockville, MD 20850-3222
(Montgomery County),

Plaintiff,

v.

NINTENDO CO., LTD.
11-1 Kamitoba hokotate-cho
Minami-ku, Kyoto 601-8501
Japan

and

NINTENDO OF AMERICA, INC.
4820 150th Avenue N.E.
Redmond, WA 98052,

Defendants.

CIVIL ACTION NO. _____

COMPLAINT FOR PATENT
INFRINGEMENT

JURY TRIAL DEMANDED

COMPLAINT

The plaintiff, Hillcrest Laboratories, Inc. ("Hillcrest"), for its complaint against defendants, Nintendo Co. Ltd. and Nintendo of America, Inc. (collectively "Nintendo") alleges:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 100 et seq., and in particular under 35 U.S.C. § 271(a), (b), and/or (c). Hillcrest brings this action seeking damages from Nintendo Co. Ltd. ("Nintendo Japan") and Nintendo of America, Inc. ("Nintendo of America") for infringement of Hillcrest's patent rights in United States Patent Nos.

7,139,983 ("the '983 patent"); 7,158,118 ("the '118 patent"); 7,262,760 ("the '760 patent"); and 7,414,611 ("the '611 patent").

THE PARTIES

2. Hillcrest is a corporation duly organized under the laws of the State of Delaware, with its corporate headquarters and principal place of business at 15245 Shady Grove Road, Suite 400, Rockville, MD 20850-3222.

3. Upon information and belief, defendant Nintendo Japan is a Japanese corporation with its principal place of business at 11-1 Kamitoba hokotate-cho, Minami-ku, Kyoto 601-8501, Japan.

4. Upon information and belief, defendant Nintendo of America is a corporation organized under the laws of the State of Washington with its principal place of business at 4820 150th Avenue N.E., Redmond, WA 98052.

5. Upon information and belief, defendant Nintendo of America is a wholly-owned subsidiary of defendant Nintendo Japan.

JURISDICTION AND VENUE

6. This civil action for patent infringement arises under the Patent Laws of the United States, 35 U.S.C. § 100 et seq., and in particular under 35 U.S.C. § 271(a), (b), and (c). Subject matter jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Upon information and belief, Nintendo Japan and Nintendo of America purposefully have conducted and continue to conduct business in this judicial district, have placed the accused products in the stream of commerce knowing and intending this judicial district was a likely destination of these products, have caused injury to Hillcrest in this judicial district, and have committed acts of

infringement in this judicial district. In addition, defendant Nintendo of America has appointed The Corporation Trust, Inc., 300 E. Lombard St., Baltimore, MD 21202, as its registered agent in Maryland.

8. Upon information and belief, this Court has personal jurisdiction over Nintendo Japan and Nintendo of America pursuant to the laws of the State of Maryland, including the Maryland long-arm statute, MD. CODE ANN., CTS. & JUD. PROC., § 6-103.

9. Upon information and belief, venue is proper in this judicial district under 28 U.S.C. § 1391 and § 1400(b).

FACTS

10. The '983 patent, entitled "Interactive Content Guide for Television Programming," was duly and legally issued by the United States Patent and Trademark Office on November 21, 2006. A true and correct copy of the '983 patent is attached as Exhibit A. Hillcrest owns by assignment the entire right, title, and interest in and to the '983 patent.

11. The '118 patent, entitled "3D Pointing Devices with Orientation Compensation and Improved Usability," was duly and legally issued by the United States Patent and Trademark Office on January 2, 2007. A true and correct copy of the '118 patent is attached as Exhibit B. Hillcrest owns by assignment the entire right, title, and interest in and to the '118 patent.

12. The '760 patent, entitled "3D Pointing Devices with Orientation Compensation and Improved Usability," was duly and legally issued by the United States Patent and Trademark Office on August 28, 2007. A true and correct copy of the '760 patent is attached as Exhibit C. Hillcrest owns by assignment the entire right, title, and interest in and to the '760 patent.

13. The '611 patent, entitled "3D Pointing Devices with Orientation Compensation and Improved Usability," was duly and legally issued by the United States Patent and Trademark Office on

August 19, 2008. A true and correct copy of the '611 patent is attached as Exhibit D. Hillcrest owns by assignment the entire right, title, and interest in and to the '611 patent.

COUNT I: INFRINGEMENT OF UNITED STATES PATENT 7,139,983

14. Hillcrest incorporates paragraphs 1-13 as if fully set forth herein.

15. Upon information and belief, defendants have been and are now making, using, selling, and/or offering for sale within the United States, and/or importing into the United States, "Wii" video game machines and/or related "Wii" remote controllers that infringe the '983 patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a).

16. Upon information and belief, defendants have been and now are contributing to the infringement of and/or actively inducing the infringement of the '983 patent by others by, among other things, distributing or offering for sale "Wii" video game machines, related "Wii" remote controllers, and/or accessories and games that infringe the '983 patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(b) and/or (c).

17. Defendants' past and continued acts of infringement have damaged Hillcrest in an amount not yet determined and will continue to damage Hillcrest in the future; and thus Hillcrest is entitled to recover damages adequate to compensate for that infringement.

18. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Hillcrest unless and until enjoined by this Court.

COUNT II: INFRINGEMENT OF UNITED STATES PATENT 7,158,118

19. Hillcrest incorporates paragraphs 1-18 as if fully set forth herein.

20. Upon information and belief, defendants have been and are now making, using, selling, and/or offering for sale within the United States, and/or importing into the United States, "Wii" video

game machines and/or related "Wii" remote controllers that infringe the '118 patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a).

21. Upon information and belief, defendants have been and now are contributing to the infringement of and/or actively inducing the infringement of the '118 patent by others by, among other things, distributing or offering for sale "Wii" video game machines, related "Wii" remote controllers, and/or accessories and games that infringe the '118 patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(b) and/or (c).

22. Defendants' past and continued acts of infringement have damaged Hillcrest in an amount not yet determined and will continue to damage Hillcrest in the future; and thus Hillcrest is entitled to recover damages adequate to compensate for that infringement.

23. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Hillcrest unless and until enjoined by this Court.

COUNT III: INFRINGEMENT OF UNITED STATES PATENT 7,262,760

24. Hillcrest incorporates paragraphs 1-23 as if fully set forth herein.

25. Upon information and belief, defendants have been and are now making, using, selling, and/or offering for sale within the United States, and/or importing into the United States, "Wii" video game machines and/or related "Wii" remote controllers that infringe the '760 patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a).

26. Upon information and belief, defendants have been and now are contributing to the infringement of and/or actively inducing the infringement of the '760 patent by others by, among other things, distributing or offering for sale "Wii" video game machines, related "Wii" remote controllers,